



UNITED STATES PATENT AND TRADEMARK OFFICE

clo

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,849	12/31/2001	David O. Dobson	10056-001	4159
29391	7590	03/15/2004		
BEUSSE BROWNLEE WOLTER MORA & MAIRE, P. A. 390 NORTH ORANGE AVENUE SUITE 2500 ORLANDO, FL 32801				
			EXAMINER EVANS, ROBIN OCTAVIA	
			ART UNIT 3752	PAPER NUMBER 2

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/035,849

Applicant(s)

DOBSON, DAVID O.

Examiner

Robin O. Evans

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 11, 16, 17, 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 4-8, 10, 12-14 and 18-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 9-11, 15-17, 21 and 22 are rejected under 35 U.S.C. 102(b) as anticipated by Clare or, in the alternative, under 35 U.S.C. 103(a) as obvious over Clare in view of Plasko.

Clare shows a device for applying a layer of droplets having a housing with an inlet port, rotatable brush 13 with bristles 20, conduit 9, adjustable flipper array 21 and outlet port 4.

Although Clare does disclose the device as being hand held, there is nothing that precludes the device from being used as a hand held device and since the limitation is only in the preamble it has being given little patentable weight only in as much as the device shown by Clare is capable as being used as a hand held device. However if not, in the alternative Plasko shows another device, which is hand held so as to directed the droplets towards a particular area. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the device of Clare a hand held device so as to be able to direct the droplets toward a desired area as shown and suggested by Plasko (see column 2, lines 55-57).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 3752

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tambolleo in view of Clare.

Tambolleo shows a hand held device having housing 12, rotatable brush 36, bristles 42 and flipper 24. Tambolleo does not show an inlet, conduit or outlet port. Clare shows another dispensing device having an inlet and conduit 9 as well as an outlet port 4. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made Tambolleo's hand held device with inlet and outlet conduits as shown by Clare so as to be able to keep a desired constant amount of material in the housing as suggested by Clare in column 2, lines 25-27, so that the user does not have to stop the operation in order to refill the device.

5. Claims 9, 15, 16, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tambolleo in view of Clarke and further in view of Plasko.

The combination device shown by Tambolleo and Clarke shows all of the claimed limitations but does not show an array of flippers. Plasko shows another device having a plurality of flippers 60, 100 so as to be positioned in various places. It would have been obvious to one of ordinary skill in the art to have made the combination hand held device with a plurality of adjustable flippers so to be able to control the amount and the trajectory of material being dispensed.

Allowable Subject Matter

6. Claims 4-8, 10, 12-14 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3752

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Daignas, Nicola, and Tost show devices in the general state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin O. Evans whose telephone number is (703) 305-5766. The examiner can normally be reached on Monday-Thursday, 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robin O. Evans
Primary Examiner
Art Unit 3752

3/8/04

roe